

## **REMARKS**

Favorable reconsideration of this application, in light of the preceding amendments and the following remarks, is respectfully requested.

Claims 1, 3, 4, 7, and 12-40 are pending in this application. Claims 1, 7, 13, 19, 24, 30 and 36 are independent claims. Claims 1, 3, 4, 7, 13, 19, 24, 30, and 36 have been amended. Reconsideration and allowance of the present application are respectfully requested.

### **Rejections under 35 U.S.C. §101**

Claims 1-6 stand rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. This rejection is respectfully traversed.

Applicants respectfully submit that the Examiner has incorrectly characterized the recording medium as storing **nonfunctional** descriptive material. The Manual of Patent Examining Procedure (MPEP) provides guidance on the difference between “nonfunctional descriptive material” and “functional descriptive material”. In particular, MPEP § 2106.01 states the following.

In this context, “function descriptive material” consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of “data structure” is “a physical or logical relationship among data elements, designed to support specific data manipulation functions.” The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5<sup>th</sup> ed. 1993).) “Nonfunctional descriptive material” includes but is not limited music, literary works and a compilation or mere arrangement of data. (emphasis added)

Accordingly, Applicants respectfully submit that a “computer readable medium having a data structure for managing reproduction of data recorded therein” as recited in independent claim 1 is a computer readable medium storing **functional** descriptive material.

MPEP §2106.01(I) further states, regarding **functional** descriptive material, that “a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure’s functionality to be realized, and is thus statutory.” Accordingly, because the computer readable medium recited in claim 1 includes a data structure having area "storing copy protection indicating information indicating whether or not the computer readable medium contains copy protection information for use in encrypting/decrypting data" and "wherein the copy protection indicating information is included within control information recorded in a lead-in area of the computer readable medium," claim 1 is clearly directed towards patentable, statutory subject matter.

In light of the above, Applicants respectfully request that the rejection of independent claim 1, and claims depending therefrom, under 35 U.S.C. § 101 be withdrawn.

**Rejections under 35 U.S.C. §112, (2<sup>nd</sup> paragraph)**

Claim 42 is rejected under 35 U.S.C. §112, (2<sup>nd</sup> paragraph) as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner objects to the recitation of "key information" recited in claim 42. The Examiner is unclear whether the key information is important information or information regarding an encryption or decryption key. Applicants have incorporated the limitations of claim 42 into claim 1, and changed the phraseology of this limitation to clearly indicate that the information is encryption/decryption key information. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection.

**PRIOR ART REJECTIONS**

***Rejections under 35 U.S.C. §103(a)***

***EP 1 067 540A2, Suzuki and "How Computers Work" by Ron White***

Claims 1-48 stand rejected under 35 U.S.C. §103(a) as being unpatentable over EP 1 067 540 A2 to Suzuki and "How Computers Work" by Ron White (hereinafter "the White document"). This rejection is respectfully traversed.

In rejected claim 1, the Examiner primarily relies upon paragraph 17 and FIG. 1 of Suzuki. Paragraph 17 recites:

The discrimination data indicates information of one bit, for example. The discrimination data shows that the content data stored on the recording medium has been encrypted or not. The discrimination data of a value "1" indicates that the content data

has been encrypted during a recording process. The discrimination data of a value "0" indicates that the content data has not been encrypted during the recording process. In an alternative embodiment, it should be noted that the discrimination data may consist of plural bits, and that it may include data concerning a method to encrypt content data.

As readily apparent from the above quoted passage, the discrimination data in Suzuki merely indicates whether content data is encrypted or not. Suzuki does not disclose or suggest "copy protection indicating information indicating whether or not the computer readable medium contains copy protection information for use in encrypting/decrypting data," as recited in claim 1.

Furthermore, the Examiner appears to interpret the CCI data disclosed in Suzuki as teaching the copy protection information recited in claim 1. As disclosed in paragraph 4 of Suzuki, the CCI data has one of four stages and indicates whether the content data is copy free, one copy permitted, no copy permitted, no more copies permitted or no copying allowed (i.e., never copy). The CCI data certainly is not "copy protection information being encryption/decryption key information required for use in encrypting/decrypting the data", as recited in claim 1.

The Examiner relies upon the White document for teaching that DVDs store information in an array of wobbled pits and patterns. However, the White document does not teach that the data of the lead-in area of the DVD is stored in wobbled pits and patterns. By contrast, claims 1 recites that the lead-in area stores the copy protection indicating information and the copy protection information in wobbled patterns. Furthermore, the White document does not

overcome the other disclosure and suggested deficiencies of Suzuki discussed above. Therefore, even if one skilled in the art were to have combined the teachings of the White document with Suzuki, claim 1 is not rendered obvious to one skilled in the art.

Independent claims 7, 13, 19, 24, 30 and 36 include similar limitations to those discussed above with respect to claim 1; and are patentable at least for the reasons stated above with respect to claim 1.

The remaining pending claims depend upon one of the above discussed independent claims and are patentable at least for their dependency upon those independent claims.

## **CONCLUSION**

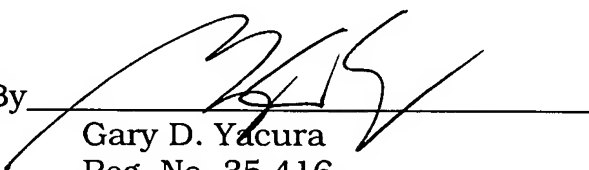
If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Gary D. Yacura, at the number of the undersigned listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By



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